

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04-40209-FDS

*Continental Woodcraft, Inc.*

vs.

*Silva's Express, Inc.*

**AMENDED COMPLAINT**

1. This action began in the Superior Court the Commonwealth of Massachusetts and was subsequently removed to the U.S. District Court for Massachusetts pursuant to 28USC1331 et. seq. and 28 USC1441(a).
2. The Plaintiff is Continental Woodcraft, Inc. a Massachusetts business corporation with a usual place of business at 181 Greenwood Street, Worcester, MA 01607 (hereinafter called "Shipper") and the Defendant is Silva's Express, Inc., a Massachusetts business corporation with a usual place of business at 75 Phoenix Avenue, Lowell, MA 01852 (hereinafter referred to as "Carrier").
3. This is an action for damages pursuant to the Carmack Amendment (motor carrier) and the matter in controversy exceeds \$10,000.00.
4. That at all times relevant the Carrier was a common carrier by motor vehicle.
5. That at all times relevant the Shipper was a manufacturer which customarily ships goods interstate by use of a common carrier.
6. That on or about February 13, 2004, Shipper gave a shipping order for certain fixtures to be shipped to Hecht's Department Store in Charlotte, North Carolina.
7. That the Carrier accepted said shipping order and issued a uniform straight bill of lading for said order to be carried by motor vehicle.
8. That the Shipper delivered to the carrier its goods in excellent, new condition, and that the shipment was not a "shipper's load".
9. That on or about February 16, 2004 the goods arrived at its destination in Charlotte, North Carolina, and an employee of the Shipper who was present noted that the load had shifted.
10. That the goods were found to be in a broken and damaged condition.
11. The Shipper complied with all terms of the order and the bill of lading in giving notice and filing of claim for the loss.

12. That the Carrier by letter dated May 5, 2004 denied the claim in total and refused to pay any part thereof.
13. That the Shipper has been damaged in the amount of \$47,972.00 which damages the Shipper is entitled to recover under the Carmack Amendment.

WHEREFORE THE PLAINTIFF RESPECTFULLY DEMANDS JUDGMENT AGAINST THE DEFENDANT IN THE AMOUNT OF \$47,972.00 TOGETHER WITH INTEREST AND COSTS THEREON.

Dated this 5<sup>th</sup> day of November, 2004.

By Plaintiff's Attorneys,



Thomas C. O'Keefe, III, Esq.  
O'Keefe & Gale  
180 West Central Street  
Natick, MA 01760  
(508)655-0000  
BBO#378185  
(OF# MT-04-2)  
(YF# 99654-V4)

Law Offices Of  
*O'Keefe & Gale*  
The O'Keefe Building  
180 West Central Street  
Natick, Massachusetts  
01760

THOMAS C. O'KEEFE, III  
CHARLES C. GALE\*  
JAMES D. FITZGERALD, JR.  
PAUL VALENTINO

Office: 508  
655-0000

November 5, 2004

OF COUNSEL:  
RAYMOND A. SNOW, C.P.A., ESQ.

Fax: 508  
655-2181

\*Also Admitted In Rhode Island

U.S. District Court For The  
District of Massachusetts  
Donohue Federal Building & Courthouse  
Attn: Deputy Clerk of Court, Civil Suite 502  
595 Main Street  
Worcester, MA 01608

RE: Continental Woodcraft, Inc.  
vs.  
Silva's Express, Inc.  
CA# 04-40209-FDS  
OF# MT-04-2

Dear Sir or Madam:

Enclosed please find Amended Complaint in regard to the above noted matter. Kindly note that no Answer has been filed to date, but that the case is open and thus no Civil Action Cover Sheet is required.

I hereby certify that I have this day sent a copy of the Amended Complaint together with a copy of this letter to Defendant's Counsel: Wesley S. Chused, Esq., c/o Looney & Grossman, LLP, 101 Arch Street, Boston, MA 02110-1112.

Thank you.

Very truly yours,

  
\_\_\_\_\_  
Thomas C. O'Keefe, III, Esq.

TCOK/jlt

Encls.

cc: Wesley S. Chused, Esq.